

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOSEPH McDANIELS,

Plaintiff,

v.

TOM SUSS, et al,

Defendants.

Case No. C07-5221RBL

ORDER DENYING MOTION TO
APPOINT COUNSEL

THIS MATTER comes before the court on the Plaintiff's Application for Court-Appointed Counsel, [Dkt. #33].

Under 28 U.S.C. § 1915(e)(1), the court may request an attorney to represent any person unable to afford counsel. Under §1915, the court may appoint counsel in exceptional circumstances. *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984). To find exceptional circumstances, the court must evaluate the likelihood of success on the merits and the ability of the petitioner to articulate the claims pro se in light of the complexity of the legal issues involved. *Weyandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983). Although plaintiff has survived a motion for summary judgment as to one claim, he has not shown a likelihood of success on the merits, and has not alleged facts or claims supporting a finding of exceptional circumstances. His request for the appointment of counsel [DKt. #33] is therefore **DENIED**.

DATED this 15th day of April, 2008.


RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE